

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

Docket No. 183,974

ORDER

Claimant appeals from an Award entered by Administrative Law Judge John D. Clark on October 12, 1994.

APPEARANCES

Claimant appeared by her attorney, James B. Zongker of Wichita, Kansas. Respondent and its insurance carrier appeared by their attorney, Eric K. Kuhn of Wichita, Kansas. The Workers Compensation Fund appeared by its attorney, Randall C. Henry of Hutchinson, Kansas.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and has adopted the stipulations listed in the Award.

ISSUES

The sole issue to be considered on appeal is the nature and extent of claimant's disability.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds that the claimant has failed to sustain her burden of establishing permanent disability as a result of an injury. The decision by the Administrative Law Judge is, therefore, affirmed.

Claimant worked for respondent from January 1989 through August 1993. She began noticing pain between her shoulder blades and neck area along with headaches, in February 1993. She reported the problems to her employer in March 1993 and was seen by Dr. Donnell in Boeing Central Medical at that time. Dr. Donnell referred her to Dr. Jeffrey Reiswig, who in turn referred her to Dr. Robert Eyster. Dr. Eyster treated claimant from May 12, 1993 through July 9, 1993. He prescribed medication and several sessions of physical therapy. He also ordered an MRI study and suggested she might benefit from a TENS unit.

In July 1993 Dr. Eyster released claimant with work restrictions. Dr. Eyster testified, however, that claimant does not, in his opinion, have any permanent impairment as a result of her work activities. He diagnosed a paravertebral muscular irritation and a minimal midline bulging disc. He concluded, however, that the condition was aggravated largely by tension. Nerve conduction studies and the MRI were normal. He felt her work might have caused increased symptoms at the time she was working, but concluded that the work had not permanently aggravated her condition. He also testified that the restrictions that he placed upon her in July were not expected to be permanent restrictions. In his opinion, she did not need permanent restrictions.

Dr. Ernest R. Schlachter examined claimant at the request of claimant's counsel. Dr. Schlachter diagnosed disc disease of the cervical spine with what he described as a psychogenic overlay and rendered claimant a five percent (5%) permanent partial impairment of function to the body as a whole.

After reviewing the testimony of Doctor's Eyster and Schlachter, as well as that of the claimant, the Appeals Board agrees with the conclusion of the Administrative Law Judge that claimant sustained injuries from her work which were temporary in nature and sustained no permanent impairment. The decision by the Administrative Law Judge is, therefore, affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge John D. Clark dated October 12, 1995 should be, and the same is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of December 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: James B. Zongker, Wichita, Kansas
Eric K. Kuhn, Wichita, Kansas
Randall C. Henry, Hutchinson, Kansas
John D. Clark, Administrative Law Judge
Philip S. Harness, Director